

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. SWO-2008-2
FRANCES J. JONES,)	
License No. LCSW-675,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
_____)	

WHEREAS, information has been received by the Idaho State Board of Social Work Examiners (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Frances J. Jones ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A. Stipulated Facts and Law

A.1. The Board regulates the practice of social work in the State of Idaho in accordance with title 54, chapter 32, Idaho Code.

A.2. The Board has issued License No. LCSW-675 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 32, Idaho Code and the Board's rules at IDAPA 24.14.01, *et seq.*

A.3. From April 2000 to July 2001, Respondent saw "Jane" and "Joe" for individual counseling as well as couples counseling. In August 2001, Jane stopped treating with Respondent, but Respondent continued to treat Joe in individual counseling regarding marital issues with Jane.

A.4. In a letter to Respondent, dated December 4, 2001, Joe's attorney requested copies of Respondent's counseling records, stating:

This firm is going to be retained to represent the interests of [Joe] in regard to a potential divorce between he and his wife, [Jane].

Pursuant to the enclosed copy of an original authorization, please provide me with copies of the counseling records of [Joe].

You may confirm this request with [Joe]. I ask that you not contact or otherwise inform [Jane] of this request. No divorce complaint has been filed, and it is possible that no divorce complaint will be filed.

Any record that was created regarding [Joe]'s counseling which also included [Jane]'s counseling should be included, since she will have no claim of privilege against him regarding these notes.

If you have any questions about this request, or believe you are unable to comply, please contact my office as soon as possible.

Joe's attorney provided Respondent with a written authorization by Joe, but not by Jane, for the release of these records, which included records concerning both Joe and Jane. In reliance on the attorney's representation that Jane would have no claim of privilege, on December 10, 2001, Respondent provided copies of the requested counseling records to Joe's attorney without first obtaining Jane's consent.

A.5. On February 8, 2002, Joe's attorney issued to Respondent a Subpoena Duces Tecum in connection with divorce proceedings between Joe and Jane, requesting copies of, among other things, all counseling notes between Respondent and Jane. In response, Respondent provided copies of counseling records for Jane to Joe's attorney.

A.6. On July 8, 2002, Respondent signed an affidavit for Joe's attorney in the divorce proceedings, to which Respondent attached copies of Jane's counseling notes previously obtained by the subpoena. In the affidavit, Respondent also states: "I have somewhat understated [Jane's] emotional issues in my client notes and have more fully expounded on them here for purposes of providing the most complete picture I can." The information provided by Respondent in the affidavit regarding Jane's counseling went beyond the documents requested in the subpoena issued by Joe's attorney (*i.e.*, the

counseling notes). Respondent did not have Jane's permission to discuss in the affidavit Respondent's counseling of Jane.

A.7. For reasons unrelated to this matter, Respondent intends to move to another state and now wishes to voluntarily surrender License No. LCSW-675 on or before November 6, 2009.

A.8. The State alleges that Respondent's release of counseling records concerning Jane prior to issuance of the subpoena and Respondent's statements in the affidavit concerning Jane as stated in the allegations of Paragraphs A.3 through A.7 above, if proven, would violate the laws and rules governing the practice of social work specifically Idaho Code § 54-3211(6) (unprofessional conduct) and 54-3213 (social workers shall not disclose privileged communications), and Board Rule (IDAPA 24.14.01) 450.02.i (except when required by law or judicial order, social workers shall obtain the client's informed written consent before releasing confidential information except for compelling reasons). Respondent denies any violation of the law or the Board's rules. Nevertheless, to resolve these disputed claims and rather than contest these charges at a hearing, Respondent enters into this Stipulation in an effort to expeditiously resolve this matter and agrees that the Board, in its discretion, may enter the proposed Consent Order hereon adopting this Stipulation.

B. Waiver of Procedural Rights

I, Frances J. Jones, by affixing my signature hereto, acknowledge that:

B.1. I understand the charges pending before the Board as set forth in Section A.1 through A.8 above. I acknowledge that evidence exists from which the Board might find after a hearing that a violation of the Board's laws and rules has occurred and that grounds for discipline against my license exist.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial

review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of social work in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

C. Stipulated Discipline

C.1. Respondent is hereby reprimanded for disclosing confidential information concerning Jane without Jane's consent, by Respondent's release of counseling records concerning Jane prior to issuance of the subpoena and Respondent's statements about Jane in the affidavit. The Board hereby accepts the voluntary surrender of Respondent's License No. LCSW-675 to take effect on November 6, 2009 (hereinafter, the "Cancellation Date"), unless Respondent requests an earlier Cancellation Date by hand delivering License No. LCSW-675 to the Board's secretary at the Idaho Bureau of Occupational Licenses. On and at all times after the Cancellation Date, Respondent shall not practice social work in the State of Idaho unless and until Respondent renews License No. LCSW-675 or is otherwise granted licensure by the Board in its discretion.

C.2. All renewal rights associated with License No. LCSW-675 pursuant to Idaho Code § 67-2614 are hereby suspended for a period of ninety (90) days following the Cancellation Date. Prior to any request thereafter for reinstatement of such renewal rights and for renewal of License No. LCSW-675, Respondent shall (a) satisfactorily complete a minimum of twelve (12) hours of continuing education in ethics, divorce and/or custody proceedings, the confidentiality of client information and/or client relationships and (b) provide certification of completion of this continuing education to the Board, which must be accepted and approved by the Board. Respondent must also receive prior approval by the Board as to both the sponsoring entity and continuing education coursework for which she is seeking credit, and said continuing education shall

be in addition to the continuing education requirements generally required for licensure.

C.3. All costs associated with compliance with the terms of this Stipulation and Consent Order are the sole responsibility of Respondent.

C.4. The violation of any of the terms of this Stipulation and Consent Order by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation and Consent Order.

D. Presentation of Stipulation to Board

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

E. Violation of Stipulation and Consent Order

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within fourteen (14) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes with my consent, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above

Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 22 day of September, 2009.

Frances J. Jones
Frances J. Jones
Respondent

APPROVED AS TO FORM:

DATED this 22nd day of September, 2009.

Samuel A. Hoagland
Samuel A. Hoagland
Attorney for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 22nd day of September, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Emily A. Mac Master
Emily A. Mac Master
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-3204, the foregoing is adopted as the decision of the Board of Social Work Examiners in this matter and shall be effective on the 7th day of October, 2009. IT IS SO ORDERED.

IDAHO STATE BOARD
OF SOCIAL WORK EXAMINERS

By Cheryl R. Jurgens
Cheryl R. Jurgens, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of October, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Frances J. Jones
6962 Cascade
Boise, ID 83704

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Samuel A. Hoagland
Attorney at Law
702 W. Idaho Street, Ste. 1100
Boise, ID 83702-8911

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail

Tana Cory
Tana Cory, Chief
Bureau of Occupational Licenses